

NNH FA13 4057406

TAYLOR SAMUELS

Vs

JOEL A. BYAM

State of Connecticut

New Haven

Magistrate's court

December 5, 2013

Defendant's

MOTION TO DISQUALIFY JUDICIAL AUTHORITY

The defendant Joel A. Byam moves to disqualify Magistrate Jane Grossman in accordance with Section 1-23 of the Practice Book, for reasons set forth in the attached affidavit.

The defendant has been unable to file the motion 10 days before the date set for the hearing because he wanted to be accurate as to the basis and although he ordered the transcript on November 4, 2013 he did not receive one copy until December 3rd and, although promised the other on December 4th, has not yet received it.

The defendant claims that the impartiality of the judicial authority might be reasonably questioned.

According to Canon 3(C)(1) of the Code of Judicial Conduct, if a judge's ability to be impartial might reasonably be questioned, the judge should be disqualified from that judicial proceeding. The judge as a minister of justice "should be cautious and circumspect in his [or her] language and

FAMILY MAGISTRATE COURT

conduct." *Felix v. Hall-Brooke Sanitarium*, 140 Conn. 496, 502, 101 A.2d 500 (1953). There does not have to be proof of actual bias by a judge to require disqualification. See *Dacey v. Connecticut Bar Assn.*, 184 Conn. 21, 441 A.2d 49 (1981); *Krattenstein v. G. Fox & Co.*, 155 Conn. 609, 615, 236 A.2d 466 (1967) "The controlling standard is whether a

reasonable person who is aware of all the circumstances surrounding the judicial proceeding would question the judge's impartiality.' " *Barca v. Barca*, 15 Conn.App. 604, 607, 546 A.2d 887, cert. denied, 209 Conn. 824, 552 A.2d 430 (1988).

Wherefore the Defendant moves that the said judicial authority disqualify herself.

Defendant by

Louis Kiefer

ORDER

GRANTED/DENIED

BY THE COURT

Assistant Clerk

Certification of Service

I hereby certify that on this date, December 5, 2013 I mailed AND e-mailed (where e-mail address appears), a copy of the Motion, and Affidavit. to:

Ms. Taylor Samuels
259 Howard Avenue
New Haven, Ct 06519

AASG Amy S. Guido
Atty Gen – Child Support
PO Box 120
Hartford, Ct 06141-0120

amy.guido@ct.gov

Mr. Joel
49 Lawlor Street, Apt 35
New Britain, Ct 06051

Byamjbyam3c7@gmail.com

Louis Kiefer

Louis Kiefer

ATTORNEY'S CERTIFICATION

Pursuant to P.B. Section 4-4, I hereby certify that a copy of the foregoing was filed via facsimile and I hereby certify that the copy was retained by Louis Kiefer is a true copy of the document which was transmitted by facsimile to the clerk.

Louis Kiefer

AFFIDAVIT

I, Joel Byam, being duly sworn depose and say:

Based upon two hearings, I believe that Magistrate Grossman is biased against me and biased in favor of the Bureau of Support and/or the Plaintiff.

In particular, on 9/19/2013 I submitted an affidavit of my current income. This was based on my paycheck. It was based on my income going back 13 weeks.

Notwithstanding the accurate statement of my then present income, Magistrate Goodman ordered me to file a different financial affidavit, including "phantom income" which was received and spent before the instant proceedings were commenced. She then ordered child support based on phantom income completely ignoring my present circumstances. She obviously did this to give the Plaintiff more on-going child support. Indeed she relied on a Child Support Worksheet that included prior income not presently available for the payment of child support.

At said hearing she ordered both me and my former companion to produce 2011 and 2012 tax returns to court. (See order of 9/19/2013) Although I complied, the defendant did not. Nevertheless, when I sought a delay until those documents were produced, the court:

Attempted to negate the value of tax returns by suggesting the Defendant could rely instead on the Department of Labor records (TR 10/31/13 p.8) They had not been produced to me until just prior to the hearing on the 31st.

When the I attempted to examine a previously filed financial affidavit of the Plaintiff in 2008, the court ruled that the defendant was not entitled to examine it – even though it might show earning capacity. (Id. p.33)

When the I attempted to have the Plaintiff answer certain judicial department approved interrogatories, the court (a) ignored the rules providing for objections to be in writing and (b) *sua sponte* objected on the mother/state's behalf. The court claimed that the answers were irrelevant.

When the Defendant pointed out that the rules of discovery say that "if it will either lead to, whether it's relevant evidence or will lead to reveal—" At that point, (as many others during the hearing) the court interrupted and stated: " I don't need a lecture on evidence, Attorney Kiefer. I just need you to answer my question." (Id. P13.) Attorney Kiefer was attempting to answer the question as to why the defendant needed the answers to interrogatories – it might lead to relevant evidence.

When the I, though my attorney stated: "... on earning capacity. In other words, if she was doing nothing that's different than being a student. The court responded "Attorney Kiefer, I would not describe being a mother of a newborn doing nothing, and I would caution you to take that position too." Said attitude suggests having custody of a child is a burden that forever excuses a parent from working. It also failed to consider that I would want to have assisted in the caretaking of the child has been denied, by the Plaintiff, of any opportunity. This suggests the world view of the judicial authority that women should stay home and take care of babies and that men should be nothing more than a provider of support.

When I sought a continuance on the issue of arrearage because of the failure of the Plaintiff to provide tax returns, as ordered the court stated: "All right. Well, let me be clear, I am extraordinarily unhappy about the idea of granting a continuance because this is an uncomplicated matter and I'm not interested in making

mountains out of molehills. (Id. p. 22) The court followed it up "Because he's the one whose now requested these two continuances and certainly the second continuance I find to be mostly on his shoulders." (Id p.29) In other words, he is presumed to be at fault because the Plaintiff failed to follow a court order and produce tax returns.

Then the court threatened the Defendant with some sanctions if he didn't bring \$198.00 a week with him. "I may order him to pay that money on that date." (Id P. 29). The court had no evidence as to what the arrearage would be or whether the defendant had the ability and nevertheless ordered to bring money to satisfy an unknown and unknowable arrearage amount.

The court stated: "So, if it's 20 dollars a week he's going to have to pay up on that day." (Id p. 27) The court seems to be ignoring the procedure dealing with contempt and presumably would not permit any evidence concerning inability to pay.

The court seems to believe that one should be precluded from evidence concerning anything other than the income of the parties even though the Child Support Guidelines permit a deviation for certain things other than income.

Based upon the above, one can only conclude that the Judicial Authority's impartiality might reasonably be questioned

s/ Joel Byam

Joel A. Byam

Subscribed and sworn to

Subscribed and sworn to
This 5th day of December 2013

s/ Louis Kiefer

Louis Kiefer
Commissioner of the Superior Court